A

VINDICATION

OF

His MAJESTIES

Government and Judicatures,

IN

SCOTLAND;

FROM SOME

Aſperſions thrown on them by Scandalous

PAMPHLETS, and *NEWS-BOOKS*:

And Eſpecially, with Relation to the

Late Earl of Argyle's PROCESS.

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VINDICATION

OF

HISTORY

OF

SCOTLAND:

PAMPHLETS, and NEWS-BOOKS

Lies Cast at Kings

A

VINDICATION

OF

His MAJESTIES

Government and Judicatures,

IN

SCOTLAND, &c.

ALL wiſe and ſober Men in *Scotland*, do with a juſt mixture of Pity, and contempt, Read thoſe Infamous Famphlets, wherein this Kingdom is ſo maliciouſly traduced by ſome in our Neighbour-Nation; and when they conſider that the Licentiouſneſs of the Preſs, does ſo much weaken all Government, corrupt all Intelligence, and blaſt ſo unavoidably the Reputation of the beſt, and moſt Innocent: They conclude juſtly, that to deny their King the neceſſary priviledge and Prerogative of reſtraining the Preſs, were to refuſe to the Maſter of a Ship, the power to prevent its Leaking: To deny the Magiſtrate the power of puniſhing theſe, who corrupt the Springs and Fountains of a City: And to refuſe to the Maſter of a Family, the Power of Chaſtiſing his Servants when they rail at one another. I am very deſirous alſo to be informed, how the King can by the Priviledge and Prerogative of His Crown, have the abſolute power of making Peace and War? Calling and Diſſolving of Parliaments, and a Negative Voice in them? and yet ſhould be denyed the far leſs priviledge of reſtraining the Preſs: Eſpecially after ſo many proofs

its having been ſo dangerous, and Seditious. How the Magiſtrates of the meaneſt Hanſe-Town ſhould enjoy this priviledge, and yet that it ſhould be deny'd to the King of *Great Britain*. Or how he ſhould have the power to puniſh Libels, and yet ſhould want the power of ſtopping them, it being both much ſafer and eaſier, to prevent, then to puniſh. Nor can I diſſemble, that our Nation has found the happy Effects of diſcharging all Printing without Liſence by an expreſs *Statute*, whereby we find the publick Government, and every private Mans Reputation moſt happily ſecured: Whilſt on the other hand, It is very obſervable, that that Peer, who told it was not yet time to reſtrain the Preſs in *England*, has liv'd to ſee a Famous Library of Libels and Paſquils againſt himſelf, for the Conviction of this Age, and the Information of thoſe who ſhall ſucceed us.

We glory alſo in the Juſtice of our Law, that has by a ſpecial *Statute*, Ordained all ſuch to be ſeverely puniſhed, who by Word, or Writ, Deviſe, Utter, or publiſh any falſe, ſlanderous, or reproachful Speeches, or Writs againſt the State, People or Countrey of *England*, or to the Diſhonour of any Privy-Councellour thereof: And therefore, we hope, that ſo wiſe and juſt a Nation as *England*, which puniſhes thoſe who injure a private Peer, will not ſuffer them to go unpuniſhed, who rail at a Nation, that is obliged to hazard their Lives and Fortunes for their preſervation.

Unhappy Liberty which conſiſts in the priviledge of doing ill, and which ſerves for nothing, but to make the Authors be contemned for want of Breeding, and deſpis'd for want of Senſe: Nor does this Crime want a ſufficient puniſhment, ſince it has convinced us, that the Enemies of the Monarchy are ſuch lyars, and ſo malicious, that they deſerve neither to be believed, nor followed; and how can any amongſt us believe theſe in Matters of Right? who every day lie ſo ſcandalouſly in Matters of Fact.

Upon this Ground, I confidently believe, that no honeſt man, will think we in *Scotland* have owned his *Royal Highneſs*, becauſe *England* had an averſion for him, as a late Pamphlet has maliciouſly aſſerted; for as their worthy Peers did wiſely reject the Bill of Excluſion; ſo our Predeceſſors were obliged to this by ſo many Oaths, and through a Series of ſo many Ages, and GOD had ſo ſeverely puniſhed Us in the laſt Age, for having joyned with our Rebellious Neighbours againſt our Native Prince, that we had been the greateſt Fools and Rogues upon Earth, to have Relaps'd ſo ſoon into the ſame Errours; and eſpecially in following the Example and Advice of thoſe very Rebels, or their impenitent Heirs, who had in ten years Exerciſed that Arbitrary Government over us, againſt which themſelves had Exclaimed, and to a height, that we had never known; and as it is very well known, that every honeſt Man in *Scotland* rejoyces, when they hear of the proſperity of the *Royal Family* in *England*, and eſteem highly, and love paſſionately all ſuch as have, or do contribute to it, (an Union in Principles, being ſtronger than that of the Kingdoms)

So

So *Scotland* being the leſs powerful Nation, what can they gain in the conteſt? Or why ſhould they envy that which is their greateſt Security, as well as Honour.

The delivering of the beſt of Kings at *Newcaſtle* was no more a National Act in us, than the Murdering him after a Mock-Tryal, was a National Act in the Kingdom of *England*; Rebels in both committed thoſe Crimes, whilſt honeſt Men ſuffer'd, with him, and for him; And it is undenyable, that the honeſt Party of *Scotland*, were at that time fighting under the Great *Montroſs*, againſt that pretended *Parliament*, which Voted his Delivery, and that even our Rebellious Countrey-men delivered him only up to ſuch of our Neighbour Nation, as did Swear upon Oath, that they ſhould preſerve Him and his Crowns; And when they found that theſe Sectarians neither regarded their Oath nor their King, they rais'd an Army immediately, to Expiate their Crime; Nor wanted ever our Nation an Army, even under the Uſurpers, to appear for the Monarchy, and from us, and Encourag'd by us, went that Army that Reſtor'd our preſent King: Let then no honeſt Man remember thoſe National Errors, except either in his Prayers, when he Intercedes with GOD, *For diverting the Curſe which thoſe Crimes deſerve*; Or in Judicatures, when ſuch are to be puniſh'd, as would lead us back into thoſe Confuſions. But why the Authors of theſe Pamphlets ſhould condemn the very Actions, which they ſo very faithfully Copy, ſeems very wonderful, as it does how our *Fanatick* Countrey-men, ſhould wiſh ſucceſs to thoſe who Rail at their Nation and their Principles.

Open then your Eyes, my dear Countrey-men, and let not your own *Fanaticiſm*, nor their Cheats perſwade you, that ſuch as endeavour to leſſen and aſperſe the Monarchy in our Neighbour-Nation, will be ever Faithful to You, who are ſworn, even in your *Covenant*, to maintain it in this, to you who oppoſed them in the laſt War, in their grand Deſigns, for a Common-wealth, and the Extirpation of the *Scottiſh*-Race, to you who think that Presbytery *Jure Divino*, which they laugh at, and never uſe it as an uſeful Government in the Church, though they do ſometimes as an uſeful Tool to Rebellion in the State, and to you whom they cheated ſo far, and oppreſt ſo dreadfully in the late Rebellion, that they know you cannot truſt them. Was it the Church of *England*, or *Sectarians* that Sold you to be Slaves in their Plantations, that fill'd your Pulpits with *Buff-Coats*, and your Churches with Horſes; and did not they turn all your own Arguments againſt you, that you had us'd againſt Epiſcopacy; for as you ſaid the Biſhops ſhould not have Revenues, ſo they ſaid your Miniſters ſhould not have Stipends, as you contended, that Lawn Sleeves were Popiſh; they contended that Gowns were ſo too; they in Enmity to Ceremony, would cover their heads at Prayer, as you did in Churches; and by the ſame Rule that you taught, that Subjects might Reform Kings, they concluded againſt you, that they might Execute them.

I shall likewise refer to your consideration, that it is the Duty of every good Subject, to obey the Law of that Nation wherein he lives, since they must either obey the Magestrate, or over-turn him; And a Schism does breed so much Un-christian Heat, and so many Civil Wars, that no pious or reasonable man should engage in it, except he be necessarily obliged to seperate from the Church, as absolutely Anti-christian: But so it is, that the differences betwixt our Episcopacy and Presbytery, which have occasion'd all these dangerous disorders, are founded upon no expres Text of Scripture, else Forreign Churches would not acknowledge ours to be a true Church, as they Universally do; nor had the Fathers of the Primitive Church owned a Government, which stood in direct opposition to the word of God. And it seems strange, that God Almighty should have designed to expres a thing in Scripture, as necessary of Salvation; and yet we who are obliged to obey the same, should not be able to find it out. It is also very fit to be consider'd by you, that the Reason why Monarchy has always preferr'd Episcopacy to Presbytetian Government, proceeds not only from an aversion to Presbytery, as neither established by Scripture, us'd in the Primitive Church, nor recommended by the Holy Fathers; But because it has been observed, that your Government being founded on equality amongst Presbyters, resembles more a *Commonwealth*; and that you have always in this Isle, Reformed without the Monarchs approbation, if not against it, and so have interwoven with your Religion, Principles opposite to Monarchical Government, resolving to ballance Established Authority, with pretences of Religion, from which necessity has at last forced many of you to oppose all Government: And it is still observable, that whatever opposes the Government of the Countrey where we live, must at last end in Anarchy and Confusion.

Those great Idolizers of Parliament, in speaking so much against our last, shew that they care no more for Parliaments, then they do for Kings, and think them only infallible when they are such as themselves. For where was there ever a Parliament so unanimous as ours was in the matter of the Succession; not one man having propounded any one Argument against it. And what a villanous thing is it to assert, that the *Test* is a *Popish* Contrivance, when in it we Swear expresly to own the *Protestant Religion*, and breed up our Children in it; And that Without all mental Reservations, or Equivocations. And to shew how well contriv'd that Oath is, in opposition to *Popery*: Not one *Papist* in all our Kingdom has taken the *Test*. What more could His Majesty's Commissioners have done, to shew his willingness to have Honest and Loyal *Protestants* enjoy their own Religion. And who after this, should believe these lying Authors? Who would impose upon the World, That, as a mark of *Popery*, which is the strongest Bulwark imaginable against it. And though we make not the *Protestant Religion* the Instrument of Cruelty, the Stirrup of Preferment, a Cloak of all manner of Knavery,

and a Trumpet of Rebellion: nor admire a vowed Atheiſt, nor pay Salaries to ſuch as deny the Divinity of Jeſus Chriſt, if they be uſeful to other Hypocritical deſigns, as ſome do; yet our Nation has reaſon to ſuſpect ſuch as will have them paſs for Popiſhly inclin'd; (as if all Duty, when it pleaſes not them were *Popery*;) for in our chief City, and its Suburbs, we have not 14 *Popiſh* Families: In the whole Dioceſs of St. *Andrews*, (the far largeſt of *Scotland*) we have not three; And there are not 60 upon a Sworn report, to be found in the Dioceſs of *Aberdeen*, which is the moſt ſuſpected of all others.

Theſe wiſe States men, who think inſolently, that they, though private men, may reform our Laws, as well as their own Religion; we will appeal to that Parliamentary infallibility, which they here deny: And therefore we contemn theſe Pamphlets, which inveigh againſt the 25 Act of the third Seſſions of His Majeſty's firſt Parliament, whereby the Eſtates of this Kingdom oblige themſelves, to ſend 22000 men, into any part of His Majeſty's Dominions, wherever His Authority, Honour, or Greatneſs may be concern'd, which was certainly their Duty; For if they defend it only at home, their defence may prove uſeleſs, both to themſelves and Him; And ſince he is our King every where, we ſhould aſſiſt Him every where: And that the King may call His Subjects, even without His own Territory, is clear by all Lawyers, and amongſt whom, I ſhall only cite, *Caſtallio de Imperatore, queſt.* 159. Where the Queſtion is expreſly treated, and this decided from the Law of Nations: Nor need any honeſt Subject fear our aſſiſting their King, and Traytors ſhould be terrified. But in all this, we were much Loyaller then that Peer of *England*, who, when our Rebellion roſe, in 1679. affirmed, that His Majeſty could not ſend down Forces into *Scotland*, without conſent of Parliament; becauſe, by the Treaty of *Rippon*, it was declar'd, that the Subjects of one Kingdom ſhould not invade the other, without the conſent of the Parliaments of both Kingdoms, which Treaty is reſcinded with us, and we believe *England* will not think that a mutual Treaty can ſtand, when one ſide is free: Nor conſider we Parliaments, as the Arbiters of Peace and War, that being the Kings incommunicable Prerogative; But this ſhews why our Acts are rail'd at, and what Loyal men they are who do it.

As alſo, ſince all Lawful Parliaments have ever ſince the Reformation, both here, and in *England*, made very ſevere Laws againſt *Non-Communicants*, or *Schiſmaticks*; either no reſpect is to be had to thoſe Parliaments, or theſe Laws are juſt, and fit: and why the Laws ſhould have been ſo ſevere to them in Queen *Elizabeths* Reign, before they had Rebelled, and ſhould now remit their ſeverity, when by frequent Rebellions, and extravagant Sermons, Books, and Aſſemblies, they have incorporated ſo many dreadful Principles, inconſiſtant with all Governments, into the Body of their Divinity: I ſee not, and ſhall be glad to be informed; and if it be

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pretended, that their numbers having infinitely increaſed ſince that time, ſhould prevail with a wiſe Magiſtrate to leſſen his ſeverity, we conclude juſt the contrary, eſpecially, ſince we find, that an exact and firm, though moderate execution of the Law, is abler to leſſen their fury, then an Indulgence, there being now very few, who go not to Church, and almoſt all repenting, that they went not ſooner; And I deſire to know from theſe Authors, if their Party in *England* think, That the true way of uſing *Papiſts*; or if the *Presbyterians* allow'd that way of arguing, when they prevail'd, and was it not that lenity, which drew on the Laſt Rebellion; and our Slavery.

A ſhort view of our Laws, made on that Subject, with the occaſion of them, will beſt clear this point.

In the laſt Rebellion, defenſive Arms, and that the people had power to Depoſe, and in defence whereof, ſeveral Books have been lately written, and therefore theſe were declared Treaſon, and it is admired how any can be called good Subjects, who maintain them.

The Parliament did ſee, that the not going to Church, occaſioned much Atheiſm and Ignorance: and the hearing ſuch as were not Authoriz'd, was a certain In-let to all Sedition and Hereſies: ſince every man might Preach what he pleaſed; and therefore they diſcharged Houſe-Conventicles, and declar'd, that Meetings in the Fields were formal Rebellion; ſince Rebellion is only a riſing in Arms, without, and contrary to the Command of Authority, and that ſome times there would be gathered together ſeveral thouſands of people in Arms, who might joyn when they pleaſed; and from a Conjunction, meerly of thoſe, proceeded the Rebellions 1666. and 1679. and they puniſhed theſe with moderate Fines, far below the Guilt. And how dare men be ſo diſingenious, as to own themſelves the only Proteſtants, and yet to invey againſt Statutes made to hinder Jeſuits, Socinians, and others to pervert the people; as we certainly know, they did for many years together at thoſe Meetings; and how could this be prevented, ſince poor Commons know not what is Orthodox. And ſince they were perſwaded not to ask who was to Preach, leaſt they ſhould be obliged to Witneſs againſt him, and as the dangers on the one hand were great, ſo on the other, they were deſired to go to that Church, which the greateſt and ſobereſt of their own Miniſters did, and do ſtill frequent.

Some Miniſters fearing that their hearts might be led as Witneſſes againſt them, infuſed in them a dangerous and ridiculous Principle, that no man was obliged to depone, when he was called to be a Witneſs, and that no man was obliged to depone, when the being at ſuch illegal Meetings, was referred to his Oath: and this was called the accuſing of ones ſelf; whereas all Laws under Heaven, oblige a man to be a Witneſs, elſe no crime could be proved And if this were allowed, we might have as many *Maſſes* as we pleas'd; and when any thing is referred to a mans Oath, he does not accuſ

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himſelf, for the Fiskal accuſes him; and do not all Nations prove Injuries and Miſdemeanors by the Oaths of the Committers, if theſe are not to be capitally puniſhed. And therefore the *Parliament* was forced to make a *Statute*, obliging them to Depone as Witneſſes.

I need not tell the dreadful Equivocations lately invented to ſecure Rebels, as when a Witneſs Depones he ſaw a Hilt, and a Scabbart, but yet knows not if there was a Sword. The *Piafraus* of *Ignoramus Juries*, and a hundred other Cheats, rather to be lamented, then related. And which tended to unhinge all Property, as well as Religion, if God and zealous Magiſtrates had not prevented it. And yet the oppoſing theſe, which is a Duty, muſt be repreſented as a Crime, for deluding ignorant people.

The Parliament then having for the neceſſary Defence of the Kingdom by re-iterated Laws, commanded thoſe things to be put in Execution. Laws which did not only at firſt ſeem to be juſt, but were thereafter upon experience, found to be ſo. Are not they promoters of *Arbitrary Government*, who think, that the Judges and Magiſtrates of the Nation, ſhould diſpence with ſuch Laws? And whoever thinks he may diſpence with ſuch Laws, muſt certainly think, that he is ty'd by no Law; and that is to be truly *Arbitrary*. And it is moſt obſervable, that thoſe who are Enemies to *His Majeſties Government*, and *His Servants*: are of all men alive, moſt guilty of that *Arbitrarineſs*, which they would fix others. It cannot be imagin'd, that the King will contemn the Laws, ſince they are his own Creatures, as well as His Support; whereas ſuch as oppoſe Him, or Rebel againſt Him, muſt firſt trample under foot, the Laws by which the King is Secur'd, and by which they are to be puniſh'd, and it is not the Maſters, but Robbers who break the Fences.

2*ly*. Are not theſe honeſt and good Country-men, who think it cruelty to puniſh ſuch as did take up Arms twice in an open Rebellion? and who own all the Cruelties that were committed in the late Civil Wars, who burn publickly *the Acts of Parliament*, and who joyn with Murderers.

3*ly*. Albeit thoſe Crimes be very attrocious, horrid in themſelves, and dreadful in the Preparative, inconſiſtent with humane Society, and a Scandal to *Religion*. Yet have not *His Majeſties Judicatures* offer'd Remiſſions to all ſuch as have been accus'd, providing they would diſown thoſe Rebellious Principles; ſo that ſuch as die, are the Martyrs of their own Crimes, and juſtifie their Judges, even whilſt they are Exclaiming againſt them. And even whilſt they are Exclaiming againſt them. And as no *Government* under Heaven, did ever ſhew ſo many Inſtances of Clemency, offering Indempnities when there was no neceſſity for them, Renewing and Preſſing thoſe Indempnities, when they were twice or thrice ſlighted; and Remiſſions, when all thoſe gentle Offers were contemn'd: ſo, has any man died amongſt us, by malicious Juries, or falſe Witneſſes?

4*ly*. Has not the Privy-Council in their Fining ſuch as were guilty, proceeded with ſuch moderation, that albeit for many years, the Laws were abſolutely contemned, after many Reiterations by the Parliament, and Proclamations from the Council, preſſing Obedience to them: Yet they have Ordered Execution to be Suſpended, as for by paſt times, to all ſuch as would Obey for the Future. And I muſt beg leave to Obſerve, that it has been upon an exact Review, found, that *the Rebellious Parliament*, 1647. did Impoſe more by way of Fine in one day, than the Privy-Council has done ſince *His Majeſties happy Reſtoration*: Such as differ'd from their *Government*, Intreated for thoſe Pardons, which are now refus'd. And it would have been thought very ridiculous, to offer a man his Life, who had been in Arms for the King, upon his offering to live peaceably.

5*ly*. If the Differences amongſt us, upon which all thoſe Rebellions were founded, were Material, and did proceed from Conſcience; ſomewhat might be ſaid to leſſen, though not to juſtifie the Guilt, for Conſcience ſhould neither be a Crime, nor a defence for Crimes. Yet what can now be ſaid? When all men willingly go to Church, which certainly they would not do, if their Conſcience did not allow them. And it being now clear, that the former contempt of the Law, proceeded from Humour, and not from Conſcience: who can blame Magiſtrates for preferring the Law of the Kingdom, to the *Humour of particular Perſons*. Somewhat might be likewiſe ſaid for thoſe Differences, if we did not find, that they neceſſarily, and naturally produced Principles of Rebellion, Aſſaſſination, contempt of Magiſtracy, and of Maſters, with a thouſand other Impieties, and Immoralities: Whilſt it is very remarkable, that *Epiſcopacy* never bred a Rebel, nor inſpir'd a Murderer, it *Preaches Obedience under the pain of Eternal Damnation*, and *praſtiſes Mercy to that height*, that it is now become *the Temper of the Men, as well as the Doctrine of the Church*.

6*ly*. In matters of *Government*, We muſt Ballance the Safety of the whole, with the Puniſhment of a few. And in our Caſe, We muſt conſider that a Civil War would be much more ſevere, then a few Executions, or Fines can be. And we need only remember the vaſt Subſidies, the extraordinary Cruelties, and boundleſs Arbitrarineſs of the laſt Age to be convinc'd, that it is not Severity, but kindneſs in the preſent *Government*, which forces them, as a Phyſician, rather to draw a little Bloud, than to ſuffer their Patient to run into a Frenſie; eſpecially when they know the Patient has been lately inclin'd to it: and when they ſee the uſual Symptoms that foretel the approaching fit, to grow very remarkably every hour.

This may be further clear'd, by comparing a little the condition, wherein *His Royal Highneſs* found this Kingdom; with that State to which it is now brought, under his happy Influence.

It cannot be deny'd, but that before *His Royal Highneſs* came to *Scotland*, the Fields were every *Sabbath* cover'd with Arm'd-men, upon the pretext of

of hearing Sermons: Which Sermons were ſo far from being a legal Defence againſt Rebellion, that they were moſt Efficacious Incentives to it. *His Majeſties* moſt undeniable *Prerogatives*, were upon all Occaſions controverted. Maſters were contemn'd by their Servants, and Heretors by their Tenants. And it was very juſt, and conſequential, that theſe Maſters ſhould have been contemn'd by their Servants, who did themſelves learn them this Leſſon, by contemning the King their Superior, and Maſter.

The Miniſters of the Goſpel were Invaded, Wounded and Aſſaſſinated. Churches were either left Waſte, or inſolently Perturb'd when they were frequented. Principles of Aſſaſſination were Preach'd and Practis'd. All ſuch as own'd, or Serv'd *the Government*, were affronted and menac'd. *Paſquils* and *Defamatory Libels*, were publickly vented and prais'd. Dreams, Viſions and Propheſies, portending the Ruine and Overthrow of the *Government* were ſpread abroad to amuſe the People, and fill the Heads of the weaker ſort with Fears and Jealouſies. Lying was become all our Wit, and Hectoring of the *Government* all our Courage.

Whereas now, People are gathered in from the Fields to Churches. *God Almighty is ſerved with Reverence; and the King as his Vicegerent with Reſpect. The Royal Prerogative is neither ſtretch'd, nor baffled.* The Privy-Council have learn'd by *his Royal Highneſſes* ſitting ſo long amongſt them, to ſhew as much Clemency, as may conſiſt with firmneſs: and to ſuſtain their Juſtice by their Courage. All Animoſities and Differences among our Nobility are Compos'd and forgot: and Thefts and Robberies in the *Highlands*, which were formerly ſo great a Reproach to the *Government*, and a Ruine to the *People*; are now not only Secur'd againſt, by preſent Puniſhments, but prevented by ſuitable and proportional Remedies, ſuch as Commiſſions of Juſticiary, Security taken from the Heretors and Chieftains of Clans; ſetling of Garriſons in convenient places, and giving Money for Intelligence to Spies. Miniſters are ſo much Protected and Encourag'd, that one can hardly think, if he had not known their former condition, that ever the People had had any unkindneſs for them: Men do not now luſt after News, nor Conventicles, but imploy thoſe Thoughts, and that Time upon their private Affairs, which they formerly miſpent, in following Expenſive Field-Preachers: Securing themſelves and their Eſtates, by a pleaſant peaceableneſs, from the *Fears*, as well as the *Damage*, of *Fines* and *Puniſhments*. We have no *Paſquils*, nor hear of no *Viſions*. Men honour the Laws by which they are protected, and thoſe Magiſtrates, by whoſe Miniſtry they enjoy this Peace and Quiet: Whilſt their Magiſtrates on the other hand, remember that *His Majeſty* and *His Royal Highneſs*, hate the inſolence of their Servants, though they may for ſome time ſuffer it: And that the preparatives they make to the prejudice of the People, *will be laſting Snares and Burdens on their Poſterity*. Magiſtrates ſhould pity the frailties to which themſelves are ſubject, and the misfortunes which themſelves

cannot ſhun, and ſhould cover rather than puniſh Eſcapes, which have more of miſtake in them than of Guilt.

By which parallel, our Country-men and Neighbours, may judge, whether *His Royal Highneſs* be ſo undeſirable a Governour, that the Law of God, of Nature, and Nations ſhould be broke, to Exclude him from his Right of Succeſſion. Whether we Enjoy greater, and truer Liberty, under his Protection: than we did under our uſurping Parliaments. And whether thoſe Expreſſions of our Thankfulneſs, proceed from Flattery, or from Gratitude.

REFLECTIONS
ON
The Earl of *ARGILE*'s Proceſs.

NExt to our Laws, our Judges are arraigned, and though all Nations preſume, that Judges underſtand, and that we ſhould preſume them Juſt, being ordinarily men of Integrity, who are engag'd upon Oath, and have both Soul and Reputation at Stake; And who know their Children are to be Judg'd by the preparatives they make. Yet our Pamphleteers, who neither underſtand matter of Law, nor matter of Fact, ſtick not moſt ſoveraignly to decide, that our Sentences, even in Criminals (in which men cannot Erre wilfully, without murdering deliberately) are abſurd, ridiculous and inhumane. And yet theſe ſame men (*the great Patrons of Juſtice,*) are the Secretaries of that Party, who after they had murdred *Strafford*, made an *Act* that none ſhould die by that preparative; in imitation of which horrid Injuſtice, our Rebellious Zealots did Execute Sir *John Gordon* of *Haddo*, upon a *Statute* made by them, after they had Comdemned him as a Traitor, for bearing Arms againſt the three Eſtates, tho he had a ſpecial Commiſſion from the King their Soveraign And hang'd the great Marqueſs of *Montroſe*, with his Declaration, Emited by His *Majeſties* Authority about his Neck, though they had Treated and cuncluded with the King that gave it, by whom ſo many Noble-men and Gentle-men fell for doing their Duty: and ſo many innocent *Cavaleers* were Maſſacred after they had got Quarters:

Then it was, That an Oath was taken by our *States-men*, not to ſpare the Lives of either Kin, Friend, nor Ally. That three hundred were expos'd on a Rock to be ſtarv'd, and as many murder'd in cold Bloud after Quarter. And a Scaf-

a Scaffold being Erected at the Crofs of *Edinburgh*, on which in ſix Weeks time, multitudes of generous *Gentlemen* having dy'd, a Zealous Miniſter *Thanked GOD for that Altar, on which ſo ſweet ſmelling a Sacrifice was offer'd.* Whereas our Merciful King, having had His Father Martyr'd, and being Himſelf Baniſh'd, Pardon'd even his Fathers Murderers. And granted not only Pardons, but Indulgences, after two inexcuſable Rebellions. And it was very wonderful, to ſee *His Royal Brother* (this formidable Tyrant in our Pamphlets) pleading for Pardon even to ſuch as owned a hatred againſt all the *Royal Family*. Nor can it be deny'd, but there is a gentleneſs in the old *Cavaleer Party*, which demonſtrates that they are in the Right. And which is infinitely preferrable to that ſowr Cruelty, and moroſe bitterneſs, which make the inſolent *Republicans*, and *Bigot Fanaticks*, deſpicable and dangerous. And as a *Monarch*, the true Father of His Subjects, thinks it generous to pardon, ſo *Republicans* muſt be cruel, to ſhew a Zeal for the Rabble which they ſerve. Nor do I ever hear that any of thoſe publick ſpirited Authors, do turn the Edge of their Zeal againſt *Ignoramus Juries*, falſe Witneſſes, lying Scriblers againſt the Government, Aſſaſſinates, *&c.*

I am now come to take Notice of a late *Pamphlet*, called, *The Scots-Miſt*, wherein, becauſe the late Earl of *Argyle*'s Proceſs is founded upon Points *in jure*, and conſequently not ſo obvious to the conſideration of every Unlearned Man, the Author takes pains to make it appear an unanſwerable Inſtance of the Arbitrarineſs of our Judges.

But before I anſwer his weak Reflections in Law, I muſt take notice of ſome few Particulars in Fact:

As *Firſt*, His Judges were not Judges in a *Packt Commiſſion*, but *the Learn'd and Ordinary Judges of the Nation.*

Secondly, What Temptation could the King, or any who have ſerved Him, have, to ſtretch the Law in that caſe; for that, as to his Life there was no deſign, is clear from the expreſs Order *His Royal Highneſs* gave, not to keep him ſtrictly after he was found guilty, though great Preſumptions were offered to that generous Prince of a deſign'd Eſcape. And himſelf order'd in Council, that the moſt learned Advocates in *Scotland*, ſhould be preſt to appear for him. Nor was ever a Priſoner us'd, either by Judges, or by the King's Advocate with ſo much diſcretion and reſpect.

Thirdly, His Juriſdictions, nor Eſtate, could be no Temptation; for the late Advocate had repreſented ſuch Reaſons againſt his Right to theſe Juriſdictions and Superiorities, as no man under Heaven could anſwer with any ſhadow of Reaſon: And the King got not one Farthing of his Eſtate, for *His Royal Highneſs* by his generous Interpoſition, procur'd more of it for his Children, than belonged to the Family, Debts being payed And the remainder was gifted by our gracious and inimitable King amongſt the Creditors; and the Tythes poſſeſt by that Earl, returned to the Church

Happy Kingdom, wherein the greateſt Inſtance of *Arbitrary Government*, is a Perſon, who having Nothing to loſe, ſave what the King gave, had a fair Tryal by ſworn Judges and Jurors; and loſt upon the Event, neither Life nor Fortune. And whoſe Family, after three Capital Sentences, two by *Parliaments*, and one by a Solemn *Juſtice Court*, is left without envy in a better condition, than almoſt any who ſerv'd the King in His great Extremities.

Fourthly, All theſe Narratives and Apologies are founded on great Miſtakes, as if the Earl had been deſired to take the *Teſt*; for we deſire no man, but men in Office deſire it, becauſe they cannot enjoy their Offices till they take it: And that the Council was once pleaſed with the Explanation he gave, as if he had given in an Explanation; and the Council being pleaſed with it, allowed him to take it in theſe Terms. Whereas the true caſe was, that the Earl had aſſured both *His Royal Highneſs*, and many others, that he would not take the *Teſt*. Notwithſtanding whereof, coming in abruptly to the Council, he ſpoke ſomething with ſo ſlow a Voice, that none ſay they heard him, and then clapping down on his Knees, took the *Teſt*; but ſome Copies being diſperſed of what he ſaid, all Loyal Men murmured at the Preparative, as tending to deſtroy, not only the Parliaments deſign in the *Teſt*, but to unhinge all *Government*. And the greateſt *Fanaticks* in *Scotland*, owned they would take it in that Sence, without prejudice to their Principles: and ſo they might, being allowed not to bind up themſelves from endeavouring any alteration they ſhould think fit for the advantage of *Church and State*: Which made the *Oath* no *Oath*, and the *Teſt* no *Teſt*. And therefore the next day, when he offered to take the *Teſt*, as a Commiſſioner of the *Theſaury*, he was deſired firſt to give in his *Explanation*, which when he gave it in, was enquir'd, if any man had heard that *Explanation* made in Council: and no man did remember he heard or underſtood it ſo. And thereafter it was Voted not ſatisfactory. And albeit His *Majeſties* Advocate allowed the Earl to prove that the Council heard and approved it; yet his Lordſhip failed in the Probation: and it is abſurd to think the Council would have allowed an *Explanation*, which would have Evacuated the whole *Act*, and the deſign of the Parliament in it: as ſhall fully hereafter be prov'd. Whereas if the Earl had only deſigned to Exoner his Conſcience, he might either have abſtained, for no man is obliged to take the *Teſt*; or if he had reſolved to know if his meaning would have been acceptable, he might have given his Senſe, and petitioned to know if that was acceptable, which had been a fair and ſure way, both for Takers and Rulers. Whereas, firſt to take, and then give in his *Explanation*, is a certain way to ſecure ones own Employments, and a Preparative to let in any, let their Principles be what they pleaſe, if they have the Wit to ſalve their Principles by appoſit Explications: and the diſperſing Copies of that Paper, before it was preſented in Council, cannot be ſaid to have been done for Exonering his own Con-

Conſcience, but is the ordinary way that men take, when they reſolve to deſame the *Government*. Nor is our *Government* ſo unreaſonable, as not to deſire to ſatisfie ſuch as ſcruple, without ill Deſigns. And this they ſhew in ſatisfying ſome of the *Orthodox Clergy*, who offered modeſtly ſome Scruples againſt the inconſiſtency of the *Confeſſion of Faith*, with *Epiſcopacy*: And which Scruples being eaſily cleared, they all obeyed ſave nineteen or twenty, in the whole Kingdom at moſt, ſome whereof had alſo inclinations however to the good old Cauſe. Nor can I paſs by here a ſtrange abuſe put upon the World in that Pamphlet, as if thoſe Scruples there ſet down, were only the Scruples of the Conform Clergy, whereas many Papers bearing that Title, were drawn by the *Presbyterians*, and found amongſt their Papers; and the Paper aſcrib'd to them in that Book, wants the chief Objection they ſtuck at, *viz.* That the Compilers of that *Confeſſion of Faith* were Enemies to Epiſcopacy; and in place thereof, it aſperſes our preſent Epiſcopacy, the King's Supremacy, and the Act of the Succeſſion, which the Conform Clergy never did.

For clearing this Proceſs, modeſtly and meerly in defence of our Judges, I ſhall firſt ſet down the Earl's Explanation, which runs thus:

I have conſidered the Teſt, and am very deſirous to give Obedience as far as I can- --

I am confident the Parliament never intended to Impoſe contradictory Oaths, and therefore I think no body can Explain it but for himſelf, and Reconcile it, as it is Genuine, and agrees in his own Senſe.

I take it as far as it is Conſiſtent with it Self, and the Proteſtant Religion. And I do Declare, I mean not to bind up my Self in my Station, and in a lawful way to wiſh, and endeavour any Alteration I think to the advantage of Church and State. Not Repugnant to the Proteſtant Religion, and my Loyalty, and this I underſtand as a part of my Oath.

The firſt Crime Charged upon the Earl from this Paper, is, that albeit by the 107. *Act* of *Parliament* 7 *J.* 1. It be Statute, *That no man Interpret the King's Statutes, otherwiſe than the Statutes bear, and to the Intent and Effect they were made for. And as the Maker underſtood, and whoſoever does the contrary, ſhall be puniſhed at the King's Will.* Yet the King and Parliament having appointed an *Oath* to be taken for ſecuring the Proteſtant Religion, and the King's Prerogatives. And having to evite the old Fanatick Juglings; and Evaſions of the Covenanters on the one hand; and the Equivocations and Mental Reſervations of the Papiſts on the other.

The Oath does expreſly bear theſe words: *And finally I affirm and ſwear, That this my ſolemn Oath is given in the plain and genuine Senſe and meaning of the words, without any Equivocation, Mental Reſervation, or any manner of Evaſion whatſoever.* The ſaid Earl did, notwithſtanding of that Statute, and

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the foresaid Clause in the Oath it self, take the said Oath in such a Sense, as did not only Evacuate his own taking of it, but did teach others how to swear to it, without being thereby obliged and path a way to Posterity, for Evacuating all the Acts that ever can be made for Security of Religion, King and Government, in so far as he declares, that he did take the Oath with these Qualifications only.

First, *I will give Obedience as far as I can.*

Secondly, *I think no body can explain it but for himself, and reconcile it as it is genuine, and agrees in his own Sense*

Thirdly, *I mean not to bind up my himself in my Station, from making any alteration, I think to the advantage of Church or State,* &c. which is not to take it in the Imposer's Sense, but his own, which will the more easily appear from these Reasons.

First, That the design of all Laws, but especially the making of Oaths, is, that the Subjects should be bound thereby, according to the Sense of the Legislator. Which is very clear from the express words of the former *Statute*, and by the Reason whereon it is founded, which is, that the Legislator may be sure of Obedience, and may know what to expect from those who are to obey. And who have taken the Oaths prescrib'd. And in which, Divines agree with Lawyers, for they tell us, That *verba juramenti intelliguntur secundum mentem & intentionem ejus cui fit juramentum, Sander. pag.* 173. But this Sense in which the Earl takes the *Oath*, does Evacuate all the designs of the *Oath*: For,

First, Whereas the *Oath* design'd that this *Act* of *Parliament* should be simply obey'd, as a sure Foundation for the Security of Church and State; the Earl promises only to obey it as far as he can, without telling in what he will obey.

2*dly*. Whereas the Oath is to be taken in the plain genuine sence of the Words; the Earl declares, that no body can explain it but for himself. And reconcile it as it is genuine, and as it agrees in his own sence. Which implies, that it had no plain genuine sence, in which it could have been taken. 3*dly*. Wherers the Parlimant designed it as a Security for the *Protestant* Religion; he declares he takes only in as far as it is consistent with the *Protestant* Religion, which implies, that in some things it is not consistent with the *Protestant* Religion. 4*ly*. It cannot be pretended, that the Parliament defided to make an Act that had cont a'istions in it; and yet the Earl says, he takes the Oath in so far as it is consistent with it self, which imports necessarily, that in some thing it is not consistent with it self. 5*ly*. The design of this Oath was, to preclude all the Taker from reserving a Liberty to rise in Arms upon any pretext whatsoever: but by this Explication, the Earl reserves to himself a power to make any alterations that he shall think,

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for the advantage of Church and State. By all which, I conclude that the Earl has Interpreted his Oath otherwiſe than it bears; and to the intent, and effect it was made for. And otherwiſe than the Maker underſtood. And therefore this Explication does clearly fall under the aforeſaid Statute.

2*dly*. If this were allowable, no Member of Parliament needs hereafter propoſe any doubts in Parliament, but let the Parliament make what Oath they plaſe, the taker will Reform, and alter it *as he pleaſes*. When he takes the Oath. And I deſire to know from any man of ſence, if the Earl would have obtained from the Parliament at the paſſing of it, that every man ſhould have been allowed to take it as far as it was conſiſtent with it ſelf, and the *Proteſtant* Religion. Or if they would have ſuffered the other Qualifications in that Paper to have been adjected, as a part of the Act. Which does demonſtrate, that he did not only take it in the Legiſlators Sence, as the former Statute commands; but that he did not at all take the Oath that they made, but made a new Oath of his own.

3*dly*. If a man ſhould oblige himſelf ſimply upon Oath, to make me a Right to ſuch Lands, could this Sence be conſiſtent with it? *I'le make it as far as I can*. Or would the making ſuch a Right, with that quality, ſatisfie the Obligation. Or could he who receives the Obligation, be ſure of a good Right, if the perſon obliged were bound to no further than he could perform.

4*ly*. All Oaths muſt be ſo taken, as that the Taker may be purſued for Perjury; but ſo it is, that when it is not known what the Taker is ty'd to, it cannot be known wherein he has failed. And conſequently in how far he is Perjured.

5*ly*. I would willingly know, if the Covenanters would have allow'd any to have taken the Covenant with a Qualification that he ſhould obſerve it as far as it was conſiſtent with his Loyalty. And do not generally the greateſt Enemies to the Kings Supremacy declare, that they are content to take the ſaid Oath, in as far as it is conſiſtent with the Word of God, and the Proteſtant Religion.

6*ly*. If this were allow'd, every man ſhould take Oath in a particular Sence, and upon his own Terms, nay and upon contrary Terms, according to mens contrary Intereſts. So that it would not be the Parliaments *Teſt*, but every mans own *Teſt*. And there ſhould be as many different Oaths, as there are different Takers.

7*ly*. Former Statute having diſcharged the Leidges to convocate, or aſſembe, or enter into Bonds and Leigues without the Kings conſent, the Covenanters did proteſt, that their taking the Covenant was not againſt theſe Acts; becauſe theſe Acts could not be meant againſt any Leagues, or Meetings holden for Preſervation of the King, Religion, and Laws. And yet the 4*th*. Act *pag*. 1 *chap*. 2. does poſitively declare, that all ſuch Gloſſes are falſe and Diſloyal, and contrary to the true and genuine mea-

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ning of these Acts. And therefore this Glos must be so too, because this Glos is the very same, both in words, and designs with those Glosses.

But though this point be very clear, and undenyable. Yet Mr. *Mist* (for so I must call the Author for distinction sake) make these three answers:

First, That if the Authority which is to administer the Oath, does accept the Takers Sence, the Taker is only bound in the Sence he gives, and no other. But so it is the Council accepted his Sence. And if they had refused, the Earl had not taken the Oath, nor had his refusal been a Crime.

To which it is replied, that first, if it be a Crime to Interpret the Kings Law otherwise than they bear, and to the effect for which they were designed: Then certainly it may be debated with very good reasons, that though the Council had conniv'd at the Earls misinterpreting the Law, neither their negligence, nor their mistake could have prejudic'd the King; nor have been in place of Remission. For though the Council be a more eminent Judicature than others, yet they cannot Pardon Crimes, when committed. And consequently their allowance, cannot make that to be no Crime, which is a Crime. And we have a particular Statute in *Scotland*, *that the negligence of the Kings Officers shall not prejudge Him*. Nor is that Statute so Reasonable in any case as in this. For since this, and all other Oaths are oft times administred by very ignorant persons, we should have them a thousand times cheated, and impos'd upon, by adjecting of such Qualifications as these; if the adjecting of such Qualifications as these were not punishable. Because he who did administer the Oath, did once allow them. And I put the case, that if a man who had many Friends in Council, should have given in an Explication that was uncontravertedly Treasonable, by saying that he was content to the Oath, but that he designed not by it to preclude himself from rising in Arms, when he thought fit, for the defence of the Protestant Religion. Would it have been a sufficient Defence, that the Council did not challenge it in the mean time And therefore if this were a Crime in it self, the Councils allowing the Explication, did not at all in strict Law take off the Crime. But the Judges (resolv'd to do him all possible favour) were more merciful then to straiten the Earl upon this Point. For if the Earl had given in an Explication to the Council, and told that he subjected that Paper to their Consideration, and that he would take the *Oath* upon these Terms, and no otherwise, the Judges would have Interpos'd for the Kings Favour, if he had been so ensnared by the Councils connivance, or mistake. Nor would the King have pursued it. But the true matter of Fact is, that the said Paper was not given in, till the next day after the Earl had sworn the *Test*. And though the Judges allowed him to prove that he had adjected these Words at his first Swearing of the said *Test*, and that they were allow'd, yet he fail'd in the Probation, and so the Judicature is no way to be blam'd.

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The ſecond Defence is, that all that can be inferr'd from the above-cited Law is, that no man ſhould put a Senſe upon any Law that ſhould bind another, or be the publick Senſe of that Law to all the Subjects, which is moſt falſe, for the Words of the Law are general, *That no man ſhall Interpret the Kings Laws, but to the Intent and Effect for which they were made.* And conſequently this muſt be Extended to all Caſes, where the Law is abus'd, and the Legiſlator diſappointed by a miſ-interpretation. *Et ubi lex non diſtinguit, nec nos.* And there is as great Reaſon to Puniſh ſuch as take *Oaths* under ſuch wreſted Senſes, contrary to the Deſign of the Legiſlator; as there is for puniſhing any Crime And much more then for puniſhing ſuch as miſ-interpret the Law to others in other Caſes. Since if this be allow'd, every man may by miſ-interpreting the *Oath* as to himſelf, evacuate all *Oaths*, and make them ridiculous. And ſo not only enjoy Employments contrary to the Legiſlators Deſign, but likewiſe cut down the greateſt Fence of Government, ſuch as *Oaths* are now eſteemed to be by all Chriſtians.

The third anſwer made to this Point is, that the Legiſlator is ſureſt of thoſe who give Explications of their *Oaths*; for they deal honeſtly: And it is impoſſible that any man can take an *Oath*, but he muſt take it in his own Senſe. But neither is this of any moment; for if this Anſwer prove any thing, it will prove that no man can be challenged for adjecting any Quality. And conſequently the *Act* of *Parliament* could take effect in no caſe. And ſo not only were this Act uſeleſs, but we would want an excellent Remedy for curbing ſuch as reſolve to abuſe the Government, in rendring all *Oaths* that are invented for its Security, altogether ineffectual. And it is ſtrange to ſee what abſurd things men will run to, when they are put to Defend an Abſurdity. And though every man muſt have a Senſe when he takes an *Oath*, it does not therefore at all follow, that men muſt be allowed to adject Senſes that are inconſiſtent with the *Oath*, or render the *Oath* uſeleſs. And ſince this is not an *Oath*, that all the Subjects muſt take, it having no other Penalty adjected to the not taking, but the loſs of Employment, they poſſeſs by the Kings meer Favour, Every good Chriſtian ought either to be ſatisfied of the deſign of the Legiſlator, in the *Oath*, or elſe to abſtain from it. And thongh the Mind of the Legiſlator might ſecure the Taker, yet that can only be when the Senſe is previouſly offered to, and accepted by him, which cannot at all be ſaid in this Caſe. And whatever favour may be pretended, where the Taker of the *Oath* condeſcends upon what he will oblige himſelf to; yet that cannot be pretended in this Caſe, where the Earl does not condeſcend how far he can obey, and does not ſpecifie how far he thinks it conſiſtent with *the Proteſtant Religion, or with it Self.* But only that he will obey *it as far as he can; and as far as it is conſiſtent with it ſelf and the Proteſtant Religion.* So that the Legiſlator is ſtill unſecure, and the Earl himſelf ſtill the only Judge. And I am deſirous to know in what part of *Europe* ſuch qualities were ever allowed?

It is alſo very abſurd to contend, that the adjecting of theſe qualities can put the taker in no worſe caſe, then if he had refuſed the *Teſt*. And ſince that cannot amount to a Crime, ſo neither can this. For it is contended, that theſe qualities do infer a miſ-interpreting of the Kings Laws, and a Defaming of the Parliament. And it is moſt abſurd to think, that ſuch things as theſe ſhould be ſuffered, becauſe they are thrown in into Explications: For elſe under the pretence of Explaining *Oaths*, we ſhould have virulent Libels daily againſt King and Parliament. Nor can I ſee why Equivocations and Mental Reſervations ſhould be condemned if this be allowed, for ſuch as take the *Teſt* or any other *Oath*, may at the taking of them, Evacuate the Obligation of the *Oath*, by adjecting ſuch qualities. And it is all one to the Legiſlator, whether he be openly or ſecretly abus'd. Only this I muſt obſerve, that the open Abuſe is the greater, becauſe it adds publick Contempt to the deſign'd Cheat: And whereas it is pretended, that the Magiſtrate may chooſe whether he will admit of the quality or not, which he cannot do in mental Equivacations.

To this it is anſwered, that that could only hold if the qualities adjected to the *Oath*, were firſt offered by way of Petition to the Magiſtrate, that it might be known whether he would allow of them, which was not done in this Caſe, wherein without ever applying to the King or Council: The Earl did by his own Authority Swear in his own Terms.

Though the Council and the Reverend Biſhops took pains to ſatisfie ſome ſcrupulous Miniſters (whoſe Scruples were in Favour of the Government) and got them the Kings Senſe, and told them their own. And which indeed was the genuine Senſe of the Parliament. Yet that did not at all allow the Earl, or any private man to take it; in a Senſe Inconſiſtent with the *Oath*. And that too without previouſly offering his doubt to the King and Council: And getting their Approbation as is ſaid. Nor were they allowed to take it in ſuch general Terms, as did unſecure the Legiſlator, and admit the Takers to be Judges

The ſecond Crime fix'd upon the Earl from this Paper, is, That albeit be the 10 *Act. Par.* 10 *Jac.* 6 *It is Statute, That none of His Majeſties Subjects, preſume nor to take upon hand, publickly to declaim, or privately to Speak, or Write any purpoſe of Reproach, or Slander of His Majeſties Perſon, Eſtate or Government, or to Deprive his Laws, and Acts of Parliament, or miſconſtruct His Proceedings, whereby any miſliking may be mov'd betwixt his Highneſs and His Nobility, and loving Subjects, in time coming, under the pain of death. Certifying them that do in the contrary, they ſhall be reputed as ſeditious and wicked Inſtruments, enemies to His Highneſs, and the common well of the Realm; and the death ſhall be Execute againſt them with all rigour, in example of others.* Yet true it is, that the ſaid Earl did endeavour all that in him lay, to Defame the King, and Parliament, and Teſt, in ſo far as he did declare, *That he would give Obedience to it as far as he could*; Which imported that the

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Parliament had made an Oath which could not be abſolutely obeyed. And though the Parliament never intended to impoſe contradictory Oaths, yet no body can Explain it but for himſelf. Which did clearly import, That though the Parliament deſign'd not to make an Oath that was contradictory, yet they had made one that was indeed contradictory; and could not be made Senſe, without private Reconciliations, and Explications: And by ſaying that he took this Oath only *as far as it was conſiſtent with it ſelf, and the Proteſtant Religion*; he did clearly declare to all the World, that he thought it in ſome things inconſiſtent with it ſelf, and the Proteſtant Religion. And ſince there is nothing concerns Governours more, than to have themſelves eſteemed by the people, without which, or numerous Armies, Government cannot ſubſiſt. And therefore our Parliaments, have in place of Armies, conſented in the former excellent Statute, That whoſoever ſhall endeavour to deprave the Laws, or miſconſtruct the proceedings of King and Parliament, ſhall be puniſhed to the death. And what can be a greater reflection upon King and Parliament, in the Age wherein we live, than to have made Laws which cannot be obeyed, and which are inconſiſtent with the Proteſtant Religion. And there was no man that ever heard that Paper, except this Author, but did conclude, that upon the matter, the people would from it entertain thoſe Scruples. Nor are theſe the inferences of people that live far from the Sun, as the undiſcreet Author does object againſt this Nation. But men muſt be as diſingenuous, as he, not to confeſs that theſe are moſt juſt and natural Inferences. And the Inferences are ſo much the ſtronger, that both this Author, and all ſuch as were Enemies to the *Teſt*, did take pains to make the people believe, that the Contrivers of the *Teſt*, were in ſo far, Friends to Popery, and conſequently, there was nothing drawn from this Paper by Inferences, but that which was too publickly owned by all, who were in the ſame Circumſtances with him who gave it in.

Mr. *Miſt* in anſwer to this part of the Accuſation, does firſt cry out, That Crimes muſt not be inferred by Inferences, and Inſinuations, ſeeing theſe may be unjuſtly drawn againſt the deſign of the Party accus'd. And no man could be ſecure, if men could be made Criminal upon Inſinuations, and Inferences. And this Paper having been given only for the Exoneration of his Conſcience, it is not capable of any ſuch Miſconſtruction, nor ought any ſuch Conſtruction be made, except where a malicious Deſign can be proved, in the Perſon accuſed.

To which it is anſwered, That the Parliament having been very jealous of the Honour of the Government, which ought to be Sacred, they diſcharg'd in general, all ſuch Words, and Papers, whereby any miſliking might be mov'd betwixt the King and his Subjects. And therefore ſince the effect was the thing they lookt to, and that it is all one to the Government, what the Authour's deſign was, if the effect was wrought, and the diſlike

moved. They therefore ordained the effect to be punished, without adding, as they do in other cases, *That whosoever shall maliciously, or upon design, Write, or Speak*; and it is very well known, that there are no Papers so dangerous, nor no Satyr so bitter as these, which are coloured with specious pretexts of Conscience, Respect and Kindness. And upon this account it was, that by the 9. *Act Par.* 20. *Jac.* 6. *All Papers that tend to renew the remembrance of the former Feeds betwixt the two Nations, shall be punishable.* And what can be more justly called Insinuations, and Inferences, *then Tendencies are.* And if the people be abus'd, and inflam'd, what advantage is it to the Government, that the Authour design'd it not. And therefore it is much safer for the Government, as it is sufficiently safe for every Subject, that men rather secure their own innocence, by not medling in publick Matters of State, then that they should be encouraged to meddle, upon hopes, that they could not be reacht, since their design could not be prov'd. And which design and malice being latent Acts of the mind, can never be otherwise prov'd, than by the nature of the Action it self. And therefore, the *dolus malus*, or design, needs not in this case be otherwise prov'd, than from the nature, and whole strain of the Paper it self. Which was so fit to inflame the People, and abuse the Parliament, that *dole* and premeditate malice, could not have done more prejudice. But if it were necessary to clear the Earl's design, further than from the Paper it self, these Circumstances might be conjoyn'd with what results from the Paper.

First, That the Earls Father and Family, had owned eminently the Principles against which this Oath was taken, *viz.* The Rising in Arms, for Reforming without the King's Authority, and did still own the Covenant.

Secondly, The Earl himself had taken the Covenant.

Thirdly, The Earl had all along opposed the *Test* in Parliament.

Fourthly, The Earl had positively told his *Royal Highness*, he would not take the *Test*.

Fifthly, Neither the Ministers, nor any other within his own Countrey, upon whom he could have influence, had taken the *Test*.

Sixthly, I am afraid that the kindness shew'd to the Earl by the Fanaticks during his Tryal, and the noise they have made for him since that time, may clear too convincingly, that he design'd in that Paper to own that Interest, for they never manifest any concern, save for those of their own perswasion. And where have we ever heard them resent the injustice done to any Cavaleer, or shew more resentment than in this Earl's Case? So that this Authour do's himself prove that design, which he desiderats, and add to the guilt, which he designs to lessen.

All

All which demonstrate, that he had an aversion for the *Test*, and so what he did against it, was done *dolo malo*; and whoever writes for him, writes against the *Test*.

Secondly, What juster measures could this Judicature take, than by considering what the Supreme Judicature of the Nation, formerly did upon the like occasion. But so it is, that the Lord *Balmerino* being accused for having misinterpreted the King's actions, in a Petition given in to himself; in which, against this Statute, he endeavoured to raise jealousies in the Peoples mind, of designs to bring in Popery, and that by far remoter Inferences than these now insisted on. He was found guilty, though his Lawyers pleaded for many days together, that there could be no Crime, but where there was a Design. And there could be no design of defaming the King, in a Paper that was meerly a humble Petition presented to himself, and accepted, and read once by him, without any show of displeasure, and wherein nothing could be challenged, but by way of Inference, and Implication. As also, this same Earl of *Argyle* being accused before the Parliament, in *Anno* 1662. for *Leasing making, betwixt King and People*, upon the *Acts* mentioned in the Earls Indictment. He was found guilty upon that expression, viz. *That that storm would blow over, and then the King would see their Tricks.* Which words, he pretended did relate to private Persons formerly mentioned in the Letter, and not to the Parliament And that every man should be allowed to interpret his own words. Which Interpretations being refus'd then, ought much less to be allow'd now, *Nam semel malus semper præsumitur malus, in eodem genere malitiæ.*

In the next place, Mr *Mist* endeavours to justifie the particular Expressions, against the Consequences drawn from them, by the Libel: And as to the first, he tells us, that in that Expression, *I will give Obedience as far as I can.* He did not at all imply, that the Law was unjust, but only that he could *not give Obedience to it:* which cannot be Treason, since the refusing it absolutely would not be Treason.

To which it is answered. That the Authour's mistake is very gross, for it was never design'd that Treason should be inferred from these words: but that which was inferred from it was, That it was a gross Evacuating of an Oath, and making it ineffectual, to say that a man should swear by way of quality, that he *will obey as far as he can*, and that he declares, *this is a part of his Oath.* For there is no man, but will take any Oath with that quality; and whatever he takes with that quality, is no Oath, nor Obligation at all, that can bind him in the Legislator's Sense: and though we look upon it as no Fault, nor Crime, not to Take the *Test*, yet to Take the *Test* so, as not to remain bound by it; and so as to Teach others how to Evacuate it, and so as to defame it, as this Expression do's, is certainly an abusing, evacuating and swearing to an Oath in express contradiction to the *Act of Parliament*, and to the Oath it self.

And

And though it be no Reproach, not to Take the Oath at all, for then a man expreſſes no Opinion concerning it; yet certainly, that with the ſubſequent expreſſions being diſperſed among the People, could not but raiſe in them Jealouſies, and a Contempt of the Government. For having made Oaths which men could not Take, though they were deſirous, and for which afterwards he inſinuates this Reaſon, viz. *That though the Parliament deſigned not to make contradictory Oaths*, yet he thinks, *That no man can Take that Oath, but in his own Senſe.*

And whereas Mr. *Miſt* pretends, that theſe Words are no Reflection upon the Parliament, ſince he do's not formally ſay, *That the Parliament has made an Oath that has Contradictions in it*; but on the contrary, *That the Parliament did not deſign to make Contradictory Oaths.*

To this it is anſwered, That the Words are a very plain Reflection upon the Parliament; for no man can hear one refuſe to take an Oath ſimply, becauſe, though the Legiſlator deſigned not to impoſe contradictory Oaths; yet *de facto*, the Oath is ſuch, as that no *man can Take it but in his own Senſe*, and without a particular *Reconciliation of his own.* But the Hearer will certainly conclude, that the Parliament has been ſo Weak, Malicious, or Inadvertent, as to have contrived an Oath, *which has in it ſelf Contradictions.* For elſe to what purpoſe was it ſaid, *That he believed the Parliament deſigned not to impoſe Contradictory Oaths.* And it is an extraordinary affront to a Parliament, *to have made contradictory Oaths*, though they did not deſign it; and to have made ſuch an Oath eſpecially, *That no man could Take it but in his own Senſe*: Whereby the whole Security of the Government is Evacuated. For the Security of the Government, as well as the Nature of Oaths, requires that an Oath ſhould be Taken in the Legiſlators Senſe. And can there be a greater moving of the People to Sedition, than to tell them, That no man that Takes that Oath, is bound by it farther than he pleaſes, and further than his own Senſe leads him. And that the Legiſlator is ridiculous in having made contradictory Oaths, which without debating whether it be true or falſe, is a reflection upon the State, and is unlawful for any private Subject. And if any ſuch thing were ſuffered upon pretence that it were poſſible, or true, it ſhould be lawful for every private man to accuſe the Government.

As to theſe words, *I take it in ſo far as it is conſiſtent with it ſelf, and the Proteſtant Religion*, they do ſo far openly import, that in ſome things *it is inconſiſtent with it ſelf, and the Proteſtant Religion*; That whoſoever would perſuade us to the contrary, muſt think us Fools and Ideots. And I almoſt charge my ſelf with Folly, in taking pains to clear this; ſince, why ſhould the Earl have ſcrupled to *take this Oath ſimply*, and have thought it neceſſary to adject, that *he took it only in ſo far as it was conſiſtent with it ſelf, and the Proteſtant Religion*, if he had not thought it inconſiſtent? And either he muſt ſay, he thought it *conſiſtent*, or *not*. If he thought it *conſiſtent*, why did he

he not take it ſimply? and if he thought it *not conſiſtent*, then he owns that *he thought the Parliament made an Oath which was inconſiſtent with it ſelf, and the Proteſtant Religion*; And this was to inflame the people, who are ſo reaſonably jealous of any thing *that is inconſiſtent with the Proteſtant Religion*. Beſides that, it is a great reflection upon their Prudence and Conduct; and ſo every expreſſion in this Paper does clear up one another, and prove unanſwerably to all the world, that this Paper is *a defaming of the Parliament, and depraving of its Laws, and a moving of the People to a diſlike of it*; which are the words of the above-cited Statute. And what can be more depraving of a Law, than to make it *pravam Legem*, a pernicious Law? And what can be more pernicious, than that Law which is inconſiſtent with the Proteſtant Religion, and which ties men to ſwear things which are contradictory? And having affirm'd all this upon Oath, and diſperſed theſe his Explications among the People, he did thereby ſhew a firm and paſſionate deſign, to make the people believe all theſe ill things of the Parliament. For no man uſes to ſwear any thing to another, without a great deſign to have him believe it; nor does any man diſperſe Papers amongſt the people, for the exoneration of his private Conſcience; nor could he have any deſign in that, ſave to poiſon them with thoſe jealouſies againſt the *Teſt*, to which he himſelf had ſhewn ſuch an averſion in the whole Tract of the Affair.

I cannot but ſmile at Mr. *Miſt*'s critical Learning, when he contends, that the Earl's Paper does only bear, that *the Earl did take the Oath in, ſo far as it was conſiſtent with it ſelf, and the Proteſtant Religion*; but did not adject the word *Only*, as the Libel does: For he who takes it in *ſo far as it is conſiſtent*, does take it in *only ſo far*. And certainly, the Author muſt confeſs, that either he deſigned to take it *further than it was conſiſtent* with the Proteſtant Religion, or *as far only* as it was conſiſtent with the Proteſtant Religion; there being no medium betwixt theſe two; and ſo our Critick may chooſe any of the two he pleaſes.

The third Crime is Treaſon; which is inferred from theſe words: *I do declare I mean not to bind up my ſelf, in my ſtation, and, in a lawful way, to wiſh, and endeavour any alteration I think to the advantage of Church and State, not repugnant to the Proteſtant Religion, und my Loyalty; And this I underſtand as apart of my Oath.* Which Treaſon may be founded on many Reaſons, yet, to convince any Reader, in a plain, familiar, and unanſwerable way, I lay down for a poſition, which I hope no man will deny, that all Nations have made it Treaſon, for any private man to aſſume, or reſerve to himſelf, the Power of *Reforming Church and State*; for that is the higheſt point of Government; which, how ſoon any private man arrogates to himſelf, he becomes preſently Governour of that Kingdom, and Superiour, both in Church and State, therein. And therefore, by the 1 *Act* 2 *Seſ. Parl.* 1 *Ch.* 2. & 1 *Act* 2 *Parl. Ch.* 2. the power of reforming is declared His Ma-

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ſty's ſole Prerogative. And all the Civilians agree with us in this; *Inter cæteras ſolicitudines (verba ſunt* Theodoſii & Valentiani *in Novel. de* Judæis *ſam her. & pag.) quas amor publicus per vigili cogitatione nobis indixit, præcipuam majeſtatis curam eſſe perſpicimus, veram religionis indaginem. Cujus ſi cultum tenere potuerimus, iter proſperitatis humanis aperiemus inceptis. vid.* Ziegler. *de jur. Majeſt. cap.* 13. *num.* 1. *Arniſ. de jur. Majeſt. cap.* 6. *num.* 15. and which is moſt reaſonable; For, whoever pretends to have power of Reforming, muſt be greater than he who is Reformed. And we have found by woful experience, that ſuch as have endeavoured to Reform, have withdrawn themſelves from the ſubjection of the Supreme Power, under which they lived; And except they reſolve to force the Supreme Power, as to this point, there is no neceſſity of reſerving a Power to themſelves.

From all which I form this Argument, *Firſt*, It is Treaſon to any man to reſerve to himſelf the power of Reforming Church or State, that being the Priviledge and Prerogative of the Prince, both by Common-Law, and the above-cited Statute; But ſo it is, the Earl does reſerve to himſelf, in this explication, a power of Reforming: and therefore he commits Treaſon.

The firſt propoſition is founded upon the nature of the Monarchy, and the reaſons and citations above-mentioned.

The ſecond propoſition is likewiſe very clear, becauſe he who reſerves to himſelf a power to make any alteration, reſerves a power to make all alteration in Church and State; and conſequently, reſerves a power to reform in matters of the greateſt importance; For in all Languages, *Any* comprehends *All*. As for inſtance, Does not he who ſays he'll do *any thing* for the King, ſay as as much as if he ſaid, I will do *all things* for Him? Or does not he who confeſſes he believes *any thing* that is in the Scripture, imply that he believes *all things* that are in the Scripture? And conſequently, that propoſition of the Earl's (*viz.*) *I intend not to bind up my ſelf from endeavouring any alteration, I think to the advantage of Church and State*: reſolves in, and is equivalent to this propoſition, *I intend not to bind my ſelf up from making all alterations that I ſhall think to the advantage of Church or State.* And if that be not Treaſon, nothing can be Treaſon.

The ſecond Argument is, That all Lawyers are clear, that it is Treaſon to attempt againſt the Security of the Government, *l.* 2 *ff. ad l. Jul. Majeſt.* But ſo it is, that he who reſerves to himſelf a power to reform, attempts againſt the ſecurity of the State; which is clear by all the Civilians; amongſt whom I ſhall only cite *Arniſens ad ſecuritatem Majeſtatis & Republicæ quietem nihil excogitari poteſt efficacius quam ſi ſumma Religionis inſpectio Majeſtati reſervetur.*

My third Argument in fortification of the Statutes formerly inſiſted on at the debate; And for farther clearing the extent of that Allegiance, that is required by the Common-Law, is founded upon *Act* 2. *Seſ.* 2. *Parl.* 1. *Ch.* 1. the very words whereof are, *Therefore the Kings Majeſty, and Eſtates*

of

of Parliament, Declare that theſe Poſitions, That it is lawful to Subjects, upon pretence of Reformation, or other pretence whatſoever, to enter into Leagues or Covenants, or to take up Arms againſt the King, or that it is lawful to Subjects, pretending His Majeſties Authority, to take up Arms againſt His Perſon, or thoſe Commiſſionated by Him: Or to ſuſpend Him from the Exerciſe of His Royal Government: Or to put limitations on their due Obedience and Alleadgance, are Rebellious and Treaſonable.

In which Words it is obſervable, That it is not the doing of theſe Deeds, but the very aſſerting of theſe Poſitions, that it is Treaſon.

Secondly, That no pretence or caution adjected to theſe Poſitions, can defend them from being Treaſonable.

Thirdly, That the Parliament thought it not ſufficient to acquieſce in the ſpecial Enumeration; but ſo jealous were they of ſuch Tricks, that they ſubjoin this general Clauſe, *That it ſhall be Treaſon to put Limitations on their due Obedience and Alleadgance.*

From which Words, I infer moſt clearly, That for a Subject to declare he is not Tyed up, *To wiſh or endeavour any Alteration*, is Treaſon, whatever pretence it be done upon. For *any Alteration*, comprehends *all Alterations*: And what man of common Senſe, or Ingenuity can deny, but this is a putting Limitations upon his Obedience, and Alleadgance, which is here declared Treaſon. For what is a greater Limitation, than to reſerve to himſelf to be Judge how far he is Tyed? And what Expreſſion or Limitation can be Treaſon by this general Clauſe, if this be not? Or of what uſe can this general Clauſe be, if it ſecure not againſt ſuch Limitations as this? Nor do I think this Limitation, wherein the Earl ſtill reſerves to himſelf to be Judge, a greater ſecurity to the King, or Kingdom, than if a man ſhould tell me, that he would lock my money in a ſecure place, but would keep the Key of it himſelf; in which Caſe, I am ſure, he, and not I, were Maſter of that money. 2*dly*, It being then Treaſon for any man to reſerve to himſelf the power of making ſuch *Alterations as he ſhall think for the advantage of Church and State*, viz. *not repugnant to my Loyalty, and the Proteſtant Religion.* The adjecting theſe Cautions, cannot hinder this Paper to be Criminal; elſe,

1. The Covenant had not been Criminal, for the very words of this Caution are in Covenant, the very words of the Covenant being, *Art.* 1. *That we ſhall endeavour, in our ſeveral Places and Callings, the Preſervation of the Reformed Religion.* And, *Art.* 3. *We ſhall with the ſame Sincerity, Reality, and Conſtancy, endeavour to preſerve and defend the King's Majeſties Perſon and Authority, in the Preſervation and Defence of the True Proteſtant Religion: That the World may bear witneſs with our Conſciences, of our Loyalty; and that we have no Thoughts, nor Intentions, to diminiſh His Majeſties juſt Power or Greatneſs.* Here are the very ſame Expreſſions, accompanied with many more, in favours of the King.

Secondly, That cannot be a ſufficient Caution againſt Treaſon, which never hindred any man to commit Treaſon; but ſo it is, that notwithſtanding of theſe Words, all the Covenanters own'd, That they might lawfully riſe in Arms, hold Parliaments, impoſe Taxes and Oaths, enter into Leagues with Foreign Princes, Hang and Head for ſerving the King, *&c Ergo*, Theſe Words are not a ſufficient Caution, when ſubjoyn'd as a Caution to the *power of Reforming*. Which is uncontraverted Treaſon in its ſelf. And did the great Proteſtations of Loyalty annexed to the Lord *Balmerino*'s Petition, defend it from being condemn'd?

Thirdly, Do we not ſee daily, That thoſe who Rebelled in *Anno* 1666, and 1679. did openly own, That they lov'd the King as well as their Accuſers did. But when he was in oppoſition to Religion, it was lawful to riſe in Arms againſt him: So little ſecurity has the King in flouriſhing Profeſſions, when the Profeſſors are to be Judges.

Fourthly, The adjecting of this Proteſtation, is called by Lawyers, *Proteſtatio contraria facto*. Which kind of Proteſtation, all Lawyers under Heaven reject, as inconſiſtent with the thing to which they are adjected. And thus the League of *France*, was Treaſon, though they did aſſert under the deepeſt Proteſtations, the ſincereſt Loyalty.

Fifthly, By the foreſaid 4 *Act Par.* 1. *Ch.* 2*d.* all Gloſſes put upon the Laws of this Nation, in the late Rebellious Parliaments, to the prejudice of their Allegiance, are declared to be falſe, and diſloyal; and contrary to the true, and genuine meaning of theſe Acts. And particularly that Gloſs, or Explanation, That what they did, was for the Preſervation of Religion; which is the very Explanation put by the Earl upon this Oath. And from which it clearly follows by a demonſtrative conſequence, That Explanations and Gloſſes put upon Oaths, and Acts of Parliament, contrary to the meaning of the Acts themſelves, are not to be reſpected And being in Law holden and repute, as unlawful, they are ſo far from defending the Contraveeners, that they are themſelves lookt upon as new Crimes.

From all which it clearly follows, That the Earl having reſerved to himſelf in this Explanation, a power to endeavour what he ſhould *think to the advantage of Church and State*. He did thereby commit Treaſon, and that this Treaſon is not taken off by the Cautions adjected, *viz.* The not Repugnancy to the Proteſtant Religion, and his own Loyalty.

Whereas it is pretended, *Firſt*, That Treaſon requires a ſpecial Law from which it ought to be inferred, I deny this Poſition; for our Libels are oft-times found relevant on the common Law, and the Laws and Cuſtoms of Nations, and the nature of the Monarchy.

There was Treaſon before there was Law, for how ſoon Kings were Elected, it was Treaſon to riſe in Arms againſt them, or to Murder or Betray them; and many of our Laws being but lately made, declare oft-times what has been Treaſon, not for neceſſity, but for the better information of

the Leidges. And though we have Laws declaring it Treaſon, to ſeek Benefices at *Rome*, yet we have none declaring it Treaſon to aſſume the Title, or Power of the King in general, that being inherent in the nature of the Monarchy it ſelf; Treaſon is the Senſe of the Government, as Murder is of private mens Lives; and to riſe in Arms was Treaſon before the Statute, King *Ja.* 1. Nor have we yet any clear Statute againſt Murder; and if ſpecial Statutes were requiſite in every caſe of Treaſon, the greateſt Treaſon ſhould often eſcape unpuniſhed. For Law thought it unneceſſary to provide againſt theſe, and every Age produces new kinds of Treaſonable Extravagancies; and Traytors would eaſily elude and cheat the expreſs Words of a Statute, if that were all that were neceſſary. But who can deny that the Juſtices condemned a man juſtly for Treaſon, for ſaying, when he was askt, If the King was a Tyrant? *Let His Coronation Oath, and His Actions, and particularly His Uſurping over the Church of Chriſt, be compared, and that will be ſoon known.* And yet here was no explicite Aſſertion; but yet what all men eaſily underſtood, and which reproacht, and miſrepreſented the King, as much as any open Expreſſion; and there was no Statute condemning that Expreſſion expreſly, nor can there be a Law for every Expreſſion: But yet the Earl's Treaſon is founded upon the expreſs Statute abovementioned.

And whereas it is pretended, *Secondly*, That the Earl might have, as a Privy Counſellor, propos'd any thing to the King, and ſo a Reſervation was neceſſar upon that account.

To this it may be eaſily anſwered, That no Oath does hinder a man from doing what is Lawful; and ſo there needed be no Reſervation nor Exception upon that, or the like Conſideration. For an Exception muſt be of ſome thing that could oppoſe the Rule. But ſo it is the Oath which is the Rule in that Caſe, did not exclude any lawful Endeavours, at the deſire, or command of the Prince; and ſo there needed no Exception as to theſe: But the former Argument ſtill recurs, *viz.* He that will not bind himſelf up, as to any thing, reſerves a power as to all things, or at leaſt it muſt be interpret of unlawful things; for lawful things need no exception. And if this were ſufficient, then the Parliament did unjuſtly, in declaring that it is Treaſon, to put limitations on our Alleadgance, and that notwithſtanding of any pretence whatſoever; nor could any man commit Treaſon, if that were allowed, for he himſelf would be ſtill Judge.

And whereas it is pretended, *3dly*, That he diſclaims the Covenant, and riſing in Arms, expreſly in this Oath; and ſo he could not reſerve any thing, as to theſe:

It is anſwered, that this were undeniable, if he took the Oath ſimply; But having taken the Oath only *in ſo far as it is conſiſtent with it ſelf, and the Proteſtant Religion*, this Oath does not tie him, if he thinks the Proteſtant Religion ſhall require riſing in Arms. And having taken the Covenant, if he

ſtill thinks the Covenant binds him, he renounces it not by his Oath; for this Oath ties him only as far as he can; that is to ſay, *as far as he is free*; and no man is free, who thinks himſelf bound; And, taking it only *as far as it is conſiſtent with it ſelf*, God only and the Earl knows how far that is; for he has not told us, how far *it is conſiſtent with it ſelf*; and very probably, ſuch as have taken the Covenant, think not that Oath *conſiſtent with the Proteſtant Religion* in ſo far as it binds us not to take up Arms, if the Proteſtant Religion be in danger; and the Anti-TeſtersPapers, printed by Mr. *Miſt*, tell us plainly, that *it is not conſiſtent with it ſelf*, in ſo far as we ſwear to own the Succeſſor, though differing in Religion from us: and yet we ſwear to the preſervation of the Laws, of which the Coronation-Oath is one. But whatever might have been ſaid in defence of ſuch limitations, before we ſaw what dreadful effects they had produced both in the laſt Age and this; and that Parliaments had ſo ſeverely condemn'd them as Treaſon: it is the duty of Judges to be ſevere to ſuch as uſe them; And they have only themſelves to blame, who ſplit on a Rock, when they ſee a Beacon ſet up to them; And it is much ſafer for the Commonwealth, that ſuch Papers be puniſhed, than that it ſhould be in danger by ſuch Reſervations, as leave every man Judge how far he is obliged to obey. And, as there is great danger to the State, on the *one hand*, if it paſs unpuniſhed: ſo there is none, on the *other*, ſeeing men may be ſecure in abſtaining ſuch Expreſſions and Papers; And there was never any ſo unneceſſary as this was: And, might not Strangers, and our own Poſterity, think all the Miſeries that ſhould fall on us by Rebellions, and Civil-Wars, very juſt puniſhments of our ſenſeleſs Security, if, after we had not only ſeen, but felt the miſchief of ſuch gloſſes, we ſtood ſtill unconcernedly, as men ſeeing their own Houſe ſet on fire by the ſame hands which had help'd to burn it formerly?

If any, by ignorance or errour, ſtumble into a legal, tho' undeſigned Crime, the Law allows not Judges, by an inſolent pity, to juſtifie the guilt, but ſuffers the King, by a judicious clemency, to mitigate, or remit the Puniſhment; In which the Subjects under Monarchy are much happier than thoſe of a Commonwealth, where, in many caſes, the Law muſt be cruel, or Judges muſt be arbitrary. This is that ſure City of Refuge, into which no man who flees periſheth; and if the Earl of *Argyle* had come in will, during the debate, as uſe is, I am ſure he had been ſecurer there, than by his Defences.

But why ſhould I admire that this *Author*, and thoſe of his Principles, do not ſee that this Paper is Treaſon: ſince, I dare ſay, they will not acknowledge that it is Treaſon to oppoſe the Succeſſion, and to ſay that it can be altered by a Parliament? and yet our Parliament unanimouſly thought that to be Treaſon; And in the laſt age they thought it not *Treaſon*, but *Duty*, to riſe in arms againſt the King, and to call Parliaments without him, though all the world abhorr'd us for it; So that the fault is not in our Par-

liaments

liaments and Judges, but in the depraved Senſe and debauch'd Intellectuals of ſuch as have (by a long cuſtom of *hating Authority*) bred in themſelves alſo a hatred of every perſon and thing that can maintain it.

Since then God Almighty (amongſt the other Miracles which he has wrought for his Darling, as well as Repreſentative, *CHARLES THE MERCIFUL*) begins to open the eyes of the blind, and to make ſome who were crooked walk ſtreight: let us, who ſerve this gracious Monarch, reaſon, whil'ſt his Enemies rail; and be juſt, whil'ſt they are extravagant; But withal, let us be aſham'd, that they dare do more for Humour and Errours, than we for Duty and Law; and we may expect, amongſt other Rewards which the Rabble has not to beſtow, that we will get alſo that applauſe which is always the Slave of Victory, and which of late ſeem'd to fan themſo pleaſantly, meerly becauſe they were like to prevail, and for which too many of late ſacrific'd their Honour and Loyalty, without remembring, that, tho' juſt applauſe is an Elogie written by the hand of Virtue, and a Monument built of ſolid Merit; yet that applauſe which is unjuſt, is only a ſweet Poiſon, a plauſible Cheat, and the Dream of one that is drunk.

FINIS.